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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/901,535	07/09/2001	Lorin Olson	LFS-132	7103

27777            7590            02/21/2003  
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EXAMINER	
FONTAINE, MONICA A	
ART UNIT	PAPER NUMBER

1732            7  
DATE MAILED: 02/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/901,535	OLSON, LORIN
	Examiner Monica A Fontaine	Art Unit 1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 1-29 and 34-39 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 30-33 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) 1-39 are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 09 July 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____.  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>5</u> . | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Election/Restrictions***

Applicant's election with traverse of Claims 30-33 in Paper No. 6 is acknowledged. The traversal is on the ground(s) that it would not be unduly burdensome to perform a search on claims 30-33 together. This is not found persuasive because different classification serves as evidence that there would be a burden examining the groups together.

The requirement is still deemed proper and is therefore made FINAL.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 30 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear what the specific micro-replication technique is being referred to in line 3: "one or more micro-replication techniques." Furthermore, it is unclear whether or not several techniques can be combined, and the reason or process therefor that the aforementioned techniques do not include the "forming" and "customizing" steps is not stated. The phrase "by means of...technique" in line 4 is unclear since "means" is considered to be an element not a process, wherein the element is *used* in the process. The term "customizing" is unclear as to the actual process step being performed.

Claim 30 recites the limitation "the line" in line 7. There is insufficient antecedent basis for this limitation in the claim.

Claim 31 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim is not worded clearly, and the examiner is herein interpreting the claim to say "The method according to Claim 30, wherein said open lumen is formed during the step of fabricating."

Claim 32 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. An electrical discharge machining device is disclosed as being used to form the mold cavity, not to customize a tip (see Specification, Page 16, last paragraph).

#### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 30, 31, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lundin et al. (U.S. Patent 6,379,592), in view of Abrahamson (U.S. Patent 5,403,291). Regarding Claim 30, Lundin et al., hereafter "Lundin," show that it is known to carry out a method of manufacturing a structure, comprising the steps of providing a suitable material from which said structure can be fabricated by means of one or more micro-replication techniques

(Column 7, lines 32-33, 36-41), fabricating said structure from said suitable material by means of one or more micro-replicating techniques (Column 3, lines 34-42), wherein said structure has dimensions in the range from about 100 to 2,000  $\mu\text{m}$  or 100 to 10,000  $\mu\text{m}$  (Column 3, lines 43-55). Lundin does not show the formation of a structure with a base and a vertex. Abrahamson shows that it is known to mold a structure having a proximal end defining a base and a distal end having a vertex (Column 4, lines 37-40, 43-47), to form an open lumen within said structure, said open lumen extending from said base to said distal end, wherein said distal end of said open lumen intersects said vertex (Column 4, lines 54-59, 65-68 – Column 5, lines 1-3), and to customize a tip at said vertex, said customized tip being selectively angled for a particular application (Column 5, lines 7-10). Abrahamson and Lundin are combinable because they are concerned with a similar technical field, namely, that of molding very small hollow articles. It would have been obvious to one of ordinary skill in the art at the time the invention was made to fashion a structure as in Abrahamson by Lundin's micro-replicating process in order to achieve a high degree of accuracy during the molding process. Regarding Claim 31, Lundin and Abrahamson show the basic process as claimed as discussed above, including Abrahamson's molding the open lumen during the step of fabricating (Column 4, lines 54-59). It would have been obvious to one of ordinary skill in the art at the time the invention was made to form the open lumen during the step of fabricating, as in Abrahamson, as a part of Lundin's molding process in order to reduce the number of post-manufacturing steps that are needed. Regarding Claim 33, Lundin and Abrahamson show the basic process as claimed as discussed above, including Abrahamson's tip having a beveled edge (Column 4, lines 63-65). It would have been obvious to one of ordinary skill in the art at the time the invention was made to form a beveled

edge, as in Abrahamson, during Lundin's molding process in order to create a more effective article.

Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lundin, in view of Abrahamson, in further view of Stiger (U.S. Patent 6,117,386). Lundin and Abrahamson show the basic process as claimed as discussed above, but do not show using an electrical discharge machining device. Stiger shows that it is known to fashion a cylindrical member using electrical discharge machining (Column 7, lines 50-56). Stiger and Lundin are combinable because they are concerned with a similar technical field, namely, that of molding very small hollow articles. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Stiger's manufacturing technique in Lundin's molding process in order to achieve the highest accuracy possible during the molding process.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with regard to molding needles in general:

U.S. Patent 5,078,700 to Lambert et al.

U.S. Patent 5,217,671 to Moriuchi et al.

U.S. Patent 5,456,875 to Lambert

U.S. Patent 5,620,639 to Stevens et al.

U.S. Patent 6,471,903 to Sherman et al.

Art Unit: 1732

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monica A Fontaine whose telephone number is 703-305-7239. The examiner can normally be reached on Monday-Friday 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rick Crispino can be reached on 703-308-3853. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9310 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

maf  
February 12, 2003

*Jill L Heitbrink*  
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MARY EXAMINER  
-1732  
2/13/03